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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/688,517	10/17/2003	Sei-won Hong	P2043US	2124
8968 7590 02/22/2008 DRINKER BIDDLE & REATH LLP ATTN: PATENT DOCKET DEPT. 191 N. WACKER DRIVE, SUITE 3700 CHICAGO, IL 60606			EXAMINER KIM, CHONG R	
			ART UNIT 2624	PAPER NUMBER
			MAIL DATE 02/22/2008	DELIVERY MODE PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

**Advisory Action
Before the Filing of an Appeal Brief**

Application No.

10/688,517

Applicant(s)

HONG, SEI-WON

Examiner

Charles Kim

Art Unit

2624

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 14 January 2008 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☐ The period for reply expires _____ months from the mailing date of the final rejection.
b) ☒ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
(a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);
(b) ☐ They raise the issue of new matter (see NOTE below);
(c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
(d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☐ Applicant's reply has overcome the following rejection(s): _____.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☒ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☒ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
The status of the claim(s) is (or will be) as follows:
Claim(s) allowed: _____.
Claim(s) objected to: _____.
Claim(s) rejected: 7-24.
Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing of good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because: see attachment.
12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08) Paper No(s). _____.
13. ☐ Other: _____.


BHAVESH M. MEHTA

SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2600
Part of Paper No. 20080211

Applicant argues (page 7) that their claimed invention (claim 7) differs from the prior art because Safai's disclosure of both the zoom-in operation and the retouching operation does not render obvious the simple step of performing retouching on a zoomed-in image, as claimed. The Examiner disagrees.

As explained in the previous Office action (page 2), Safai discloses the well known concept of displaying a zoomed-in image using a digital camera (Safai, col. 10, ll. 60-67). Safai also discloses the well known concept of retouching an image using the same digital camera (col. 7, ll. 31-50). With these two teachings available to them, one of ordinary skill would have clearly realized the benefit of retouching the image in a zoomed-in mode. First, one of ordinary skill would have known that a typical display on a digital camera is only a few inches in size.¹ With such a compact screen, it would have been difficult for a user to determine which areas of the image needed retouching. Hence, in order to solve this problem, the ordinary artisan would have used the zoom-in feature prior to performing the retouching process in order to get a better view of the image that needs retouching on the small display. The combination of these two steps would have been clearly within the ability and creativity of one of ordinary skill. *See KSR Intern. Co. v. Teleflex Inc.*, 127 S. Ct. 1727, 42 (stating "a person of ordinary skill is also a person of ordinary creativity, not an automation"). Therefore, Safai's disclosure is sufficient to suggest to one of ordinary skill to perform the retouching on a zoomed-in image, as recited in claim 7.

Instead of addressing the Examiner's arguments directly by explaining why the two teachings would *not* have been obvious to one of ordinary skill, Applicant chose to create their own hypothetical variation of Examiner's contention, and then attack that variation by arguing that it would have been "completely nonsensical." The Examiner agrees with Applicant that it *would* have been "completely nonsensical" to apply retouching to a smaller thumbnail-sized image--the Examiner cannot think of any reason why a user would want to do that. However, the Examiner's position is that it would have been obvious to apply retouching to a zoomed-in image, not a zoomed-out image. Therefore, Applicant's arguments are not persuasive.

Applicant also argues that "the Office Action still fails to provide any detail as to where the structural features recited in claim 11...as well as the structural features recited in claims 13-18 can be found in the applied art references." In response, the Examiner would like to point out that in the previous Office action (page 2), the Examiner explained that the structure features recited in claim 9 were illustrated in at least figure 2 of Safai. In particular, elements 210 and 232 were construed as the recognition unit and the region retouch unit respectively. Safai explains that the region retouch unit 232 is an application program (col. 7, ll. 56-57). Hence, any limitations reciting additional units within the region retouch unit is considered to be met by Safai's application program 232. Moreover, Cok discloses that image editing is similarly performed using application programs, i.e., "editing software packages" (col. 1, ll. 22-24). Therefore, the combination of these two teachings meets the structural features recited in claims 11, 13-18.

¹ The LCD display in Safai is approximately 2 inches in the diagonal dimension (col. 5, ll. 17-21).